

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

ATLANTIC COAST AIRLINES	)	
HOLDINGS, INC.,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 1:03CV02198RMC
v.	)	
	)	
MESA AIR GROUP, INC.,	)	
	)	
Defendant.	)	
	)	

**MOTION OF THE DISTRICT OF COLUMBIA FOR  
LEAVE TO FILE BRIEF OF DISTRICT OF COLUMBIA AND  
COMMONWEALTH OF VIRGINIA AS AMICI CURIAE IN  
SUPPORT OF PLAINTIFF’S MOTION FOR A PRELIMINARY INJUNCTION**

The District of Columbia (“District”), through its undersigned counsel, respectfully moves this Court for leave to file, as amicus curiae, the attached brief with regard to the application of Atlantic Coast Airlines Holdings, Inc. ("Atlantic") for a preliminary injunction in this matter.

**MEMORANDUM OF POINTS AND AUTHORITIES**

As explained more fully in the attached amicus brief, the Corporation Counsel is the District’s antitrust enforcement official. D.C. Official Code §§ 28-4505 to 28-4513 (2001) (hereinafter “D.C. Code” refers to the D.C. Official Code (2001)). Under the District’s Antitrust Act, the Corporation Counsel has express authority to file an action for damages “on behalf of any individual residing in the District,” as well as an action for damages or injunctive relief on behalf of the District’s proprietary interests. D.C. Code §

28-4507. Moreover, under the Clayton Act, the Corporation Counsel has the same authority as a state attorney general to bring *federal* damages actions “as *parens patriae* on behalf of natural persons residing in such State.” 15 U.S.C. §§ 15c and 15g. In addition, the Corporation Counsel has *parens patriae* authority to seek injunctive relief against antitrust violations that harm the District’s residents or the District’s economy, based on the Supreme Court’s determination that a state is a “person” that may seek injunctive relief against antitrust violations that harm its economy or the welfare of its citizens. *Georgia v. Pennsylvania R.R. Co.*, 324 U.S. 439 (1945); *see also California v. American Stores Co.*, 495 U.S. 271 (1990).

The District is interested in this case because of Atlantic’s allegations that Mesa Air Group, Inc. (“Mesa”) is pursuing a course of action that would violate both federal and District antitrust laws “by foreclosing significant competition, restricting choices of D.C. consumers, and reducing the volume of flights available, and increasing prices to travelers to and from D.C. in the Relevant Markets.” Amended Complaint ¶ 260 (filed Nov. 26, 2003). The District has an interest in protecting its economy and its citizens from any restraints of trade that would raise prices and reduce choice. In addition, the District government itself has a proprietary interest, as a purchaser of air travel, in opposing any anticompetitive conduct pertaining to air travel into and out of the D.C. area, including air travel to and from Dulles airport.

The Office of the Corporation Counsel has opened an antitrust investigation into Mesa’s alleged activity with respect to Atlantic, including Mesa’s proposed consent solicitation. This investigation is still in an early stage, and the Office of the Corporation Counsel has not reached any conclusions with regard to the investigation.

The purpose of the District's amicus brief is to aid the Court concerning several issues raised by Plaintiff's preliminary injunction motion. The District is able to address these issues from the perspective of an antitrust enforcement agency interested in protecting the public, a perspective that may complement the presentations of the parties and be of value to the Court. The particular issues addressed in the District's amicus brief are: (1) whether Atlantic, as the target of a corporate takeover, has standing to pursue a claim that the threatened takeover would violate the antitrust laws; (2) whether, given the seriousness of the questions that Atlantic has raised as to the lawfulness of Mesa's conduct and the potential for anticompetitive harm, it is in the public interest to allow for judicial review prior to the occurrence of events that could eliminate Atlantic as a competitor; and (3) whether the Court may properly take into consideration that issuance of a preliminary injunction would facilitate review of the transaction by antitrust enforcement agencies.

The District respectfully suggests that its amicus brief on these points could be of value to the Court, and respectfully requests that the Court grant the District of Columbia leave to file the brief.

Respectfully submitted,

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Dated: December 8, 2003

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The District of Columbia’s motion for leave to file a brief as amici curiae is granted.

DATED: December \_\_\_\_, 2003